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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/618,558

07/11/2003

Peter Gansen

64215-028 CIP

5170

30743

7590

02/21/2007

WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.

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SUITE 340

RESTON, VA 20190

EXAMINER

SERGEANT, RABON A

ART UNIT

PAPER NUMBER

1711

MAIL DATE

DELIVERY MODE

02/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/618,558	Applicant(s) GANSEN ET AL.	
	Examiner Rabon Sergeant	Art Unit 1711	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 2 and 4-30.
Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). Filed 1/12/07
13. ☒ Other: See Continuation Sheet.


Rabon Sergeant
Primary Examiner
Art Unit: 1711

Continuation of 3.: The proposed amendment sets forth claim limitations not previously claimed that would require further consideration and/or search. The proposed language, "visibly grainy", raises issues under 35 USC 112, second paragraph, since the language is considered to be subjective.

Continuation of 11.: Applicants' response is largely based upon amendments that will not be entered. With respect to the issue set forth within paragraph 1 of the final Office action, regardless of applicants' response, the position is maintained that the specification fails to provide proper antecedent basis for the claimed subject matter; the fact that an originally filed claim provides support for the subject matter does not address the fact that the specification fails to provide antecedent basis for the subject matter. With respect to paragraph 3, first subparagraph, despite applicants' response, the claim language remains unclear that it is the resin sans particles that is optically clear. With respect to paragraph 4, applicants' response fails to address "about 1 mm" within claim 4, and the response fails to address the lack of support for values other than the "exact values" denoted by language such as "less than" and "greater than". With respect to the prior art rejection, the position is maintained in view of the teachings within the primary reference regarding fillers that it would have been obvious to incorporate virtually any known particulate filler known to be compatible with a polyurethane matrix, such as those of the secondary references, into the polyurethane of the primary reference. It is again noted that the references teach the advantages of adding such fillers to a polyurethane.

Continuation of 13.: The Information Disclosure Statement, filed January 12, 2007 has not been considered, because it fails to comply with the provisions of 37 CFR 1.97(d) and 37 CFR 1.98(b)(4).


RABON SERGENT
PRIMARY EXAMINER